

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 4682 of 2007(G)  
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PETITIONER:  
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P.RAMDAS, S/O.LATE SRI.C.M.KUNHAMBU  
RESIDING AT CHATHAMATH, PEROL VILLAGE,  
HOSDURG TALUK, KASARGOD DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS:  
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1. THE SPECIAL DEPUTY TAHSILDAR,  
(RR), HOSDURG.
2. THE DISTRICT EXECUTIVE OFFICER,  
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,  
KASARGOD AT KANHANGAD 671315.
3. P.MANIKKAM,  
W/O.LATE C.M.KUNHAMBU, RESIDING AT CHATHAMATH,  
PEROL VILLAGE, HOSDURG TALUK, KASARGOD DISTRICT.

BY ADV. SRI.PAULSON C.VARGHESE,SC FOR KMTWF BOARD  
BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**S. SIRI JAGAN, J.**

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**WP(C) NO.4682 OF 2007 - G**  
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**Dated this the 20th day of June, 2007**

**J U D G M E N T**

The petitioner challenges revenue recovery proceedings for recovery of contributions under the Kerala Motor Transport Workers Welfare Fund Act. The contention of the petitioner is that the petitioner was not served with any final determination order under the Act without which no revenue recovery can be initiated.

2. The learned Standing Counsel appearing for the second respondent makes available for my perusal a copy of the final determination order and a copy of the postal cover in which the final determination order is stated to have been issued to the petitioner which was returned 'unclaimed'. The petitioner's contention is that this should only be a mistake since the petitioner was not served with any intimation regarding any postal article which he has refused to claim. The petitioner further submits that going by the statement filed by the second respondent, as per the final determination order, the petitioner as well as the

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third respondent were jointly made liable to pay the contributions and the appeal filed by the third respondent against the final determination order was allowed making the petitioner alone absolutely liable to pay the contributions. According to the petitioner, he was not served with any notice on any appeal filed by the third respondent and on that ground also, the petitioner is entitled to challenge the recovery proceedings.

3. I have heard the learned counsel for the petitioner, the learned Standing Counsel appearing for the second respondent and the learned Government Pleader. In view of the evidence produced by the second respondent to the effect that the final determination order issued to the petitioner has been returned 'unclaimed', in order to disprove the same, the petitioner has to take appropriate proceedings in which evidence can be taken to disprove the averment of the second respondent. It is also open to the petitioner to prove before the appropriate authority that the appeal stated

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to have been filed by the third respondent was decided without notice to the petitioner and therefore, the appellate order is vitiated. Without prejudice to such right of the petitioner, this writ petition is dismissed.

4. Learned counsel for the petitioner submits that the petitioner intends to take appropriate proceedings and seeks stay of further proceedings pursuant to revenue recovery notice till he can take appropriate proceedings in the matter. As a matter of indulgence, I direct that the further proceedings pursuant to Exts.P6 to P8 shall be kept in abeyance for a period of one month on condition that the petitioner pays 50% of the amount demanded within two weeks from today.

**S. SIRI JAGAN,  
Judge**

Mbs/

**WP(C) NO. 4682 of 2007**

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**S.SIRI JAGAN, J**

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**W.P.(C) NO. OF 2001**

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**WP(C) NO. 4682 of 2007**

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**J U D G M E N T**

**DATED:01-06-2007**

**WP(C) NO. 4682 of 2007**

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